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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,525

09/26/2003

Hajime Aga

AGA=6B

6498

7590

07/25/2006

BROWDY AND NEIMARK, P.L.L.C.  
SUITE 300  
624 NINTH STREET, N.W.  
WASHINGTON, DC 20001-5303

EXAMINER

CRANE, LAWRENCE E

ART UNIT

PAPER NUMBER

1623

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/670,525	AGA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	L. E. Crane	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06/22/2006 (amendment).
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/034,336.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

Claims 3-8 have been cancelled, claims 1-2 have been amended, the Abstract has been amended, the disclosure has been amended at page 1, and no new claims have been added as per the amendment filed June 22, 2006. No supplemental Information Disclosure Statements (IDSs) have been filed as of the date of this Office action.

Claims 1-2 remain in the case.

Note to applicant: when a rejection refers to a claim X at line y, the line number “y” is determined from the claim as previously submitted by applicant in the most recent response including ~~lines deleted by line through~~.

The disclosure is objected to because of the following informalities:

The instant disclosure includes a “Cross-References to Related Applications” wherein “incorporation by reference” has been asserted. Applicant may incorporate any part of the prior patent application by a specific amendment, but may not incorporate by reference the entire prior application in view of the rules in force as of the filing date of this application. Appropriate amendments are respectfully requested.

Appropriate correction is required.

Claim 1 is objected to because of the following informalities:

In claim 1 at line 1, the term “method for inhibiting the decrease of active-oxygen-eliminating activity” is a grammatical double negative; i.e. applicant actually appears to be claiming an -- enhancement of the reactivity of certain food constituents with oxygen --. In light of the instant case record, examiner suggests that deletion of the included term “the decrease of” from claim 1, at line 1, would provide a claim directed to the subject matter applicant appears to be interested in protecting.

Appropriate correction is required.

Claims 1-2 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Following a careful review of the examples provided in the instant disclosure, examiner has found no exemplification wherein trehalose has been added to a beverage to inhibit the reaction of a catechin or hesperidin compound contained therein with oxygen wherein the beverage is maintained in liquid form. All of the examples appear to have been directed to processes wherein trehalose has been introduced in order to assist in the production and maintenance of a product wherein the water content has been eliminated by spray drying, drying in vacuo, etc. or has been sequestered by the formation of trehalose hydrates. Therefore, the instant claims are deemed to have been redirected to what is new matter.

Applicant's arguments with respect to claims 1-2 have been considered but are deemed to be moot in view of the new grounds of rejection. This new grounds of rejection has been necessitated by applicant's amendments.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a

later invention was made in order for the examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §§102(f) or (g) prior art under 35 U.S.C. §103(a).

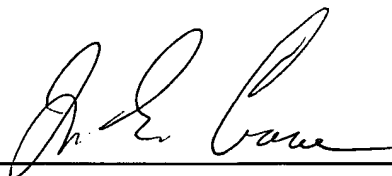
Papers related to this application may be submitted to Group 1600 via facsimile transmission (FAX). The transmission of such papers must conform with the notice published in the Official Gazette (1096 OG 30, November 15, 1989). The telephone number to FAX (unofficially) directly to Examiner's computer is 571-273-0651. The telephone number for sending an Official FAX to the PTO is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner L. E. Crane whose telephone number is **571-272-0651**. The examiner can normally be reached between 9:30 AM and 5:00 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. S. Anna Jiang, can be reached at **571-272-0627**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is **571-272-1600**.

LECrane:lec  
07/20/2006

A handwritten signature in black ink, appearing to read "L. E. Crane", is written over a horizontal line.

L. E. Crane, Ph.D., Esq.  
Primary Patent Examiner  
Technology Center 1600